

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

MARCELLA FOX,

Plaintiff(s),

V.

RYAN KOVACS, et al.,

Defendant(s).

Case No. 2:24-cv-00047-CDS-NJK

Order

[Docket Nos. 78, 83]

Pending before the Court is Defendants Ryan Kovacs, Le Croque Mitaine LLC, Orange Group LLC, and Jason Mattson's motion to stay discovery pending resolution of their motion to dismiss. Docket No. 78; *see also* Docket No. 77 (motion to dismiss). Plaintiff filed a response. Docket No. 79.¹ These Defendants filed a reply. Docket No. 87. Plaintiff filed an authorized sur-reply. Docket No. 92. Also pending before the Court is Defendant HopeLink's motion to stay discovery pending resolution of its motion to dismiss. Docket No. 83; *see also* Docket No. 82 (motion to dismiss). Plaintiff filed a response. Docket No. 85. HopeLink filed a reply. Docket No. 91. Plaintiff filed an unauthorized sur-reply. Docket No. 99. The motions to stay discovery are properly resolved without a hearing. *See Local Rule 78-1.*

As an initial matter, Plaintiff is cautioned that she is not permitted to file sur-replies without prior judicial authorization. *See Local Rule 7-2(g).* Doing so in the future may result in striking such unauthorized briefs. *See id.*

Turning to the merits of the stay requests, the Court has broad discretionary power to control discovery. *See, e.g., Little v. City of Seattle*, 863 F.2d 681, 685 (9th Cir. 1988). “The Federal Rules of Civil Procedure do not provide for automatic or blanket stays of discovery when

¹ The Court liberally construes the filings of *pro se* litigants. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007).

1 a potentially dispositive motion is pending.” *Tradebay, LLC v. eBay, Inc.*, 278 F.R.D. 597, 601
 2 (D. Nev. 2011). The party seeking a stay of discovery bears the heavy burden of making a strong
 3 showing that discovery should be denied. *Turner Broad. Sys., Inc. v. Tracinda Corp.*, 175 F.R.D.
 4 554, 556 (D. Nev. 1997). Discovery may be stayed when: (1) there is a pending motion that is
 5 potentially dispositive in scope and effect; (2) the potentially dispositive motion can be decided
 6 without additional discovery; and (3) the Court has taken a “preliminary peek” at the merits of the
 7 underlying motion and is convinced that Plaintiff will be unable to state a claim for relief. *Kor*
 8 *Media Group, LLC v. Green*, 294 F.R.D. 579, 581 (D. Nev. 2013).²

9 In this case, the Court finds a stay of discovery warranted. The motions to dismiss are
 10 potentially dispositive in scope and effect. The motions to dismiss can be decided without
 11 additional discovery. Moreover, the Court finds the motions to dismiss sufficiently meritorious to
 12 warrant a stay of discovery.³

13 Accordingly, the motions to stay discovery are GRANTED. In the event resolution of the
 14 motions to dismiss does not result in termination of the case, then a proposed discovery plan must
 15 be filed within 14 days of the issuance of the order resolving the motions to dismiss.

16 IT IS SO ORDERED.

17 Dated: April 11, 2025



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 19 Nancy J. Koppe
 20 United States Magistrate Judge

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 23 ² The Court previously stayed discovery in this case. Docket Nos. 36, 38. After Plaintiff
 24 amended her complaint, new rounds of motions to dismiss and motions to stay discovery were
 25 filed.

26 ³ Conducting the preliminary peek puts the undersigned in an awkward position because
 27 the assigned district judge will decide the motions to dismiss and may have a different view of
 28 their merits. See *Tradebay*, 278 F.R.D. at 603. The undersigned’s “preliminary peek” at the merits
 of the motions to dismiss is not intended to prejudice their outcome. See *id.* As a result, the
 undersigned will not provide a lengthy discussion of the merits of the underlying motions in this
 instance. Nonetheless, the undersigned has carefully reviewed the arguments presented in the
 underlying motions and subsequent briefing.